

## **I. Eligibility and Registration**

- A. Pursuant to the Court's July 14, 2005 General Order Regarding Electronic Filing, beginning **October 1, 2005**, any document filed by an attorney must be filed electronically using the Court's Electronic Case Filing ("ECF") system.
- B. Attorneys shall apply to file documents electronically using the Court's ECF system.
  - i. Each applicant must complete training provided by the Court or, with the Court's approval, training provided by another court.
  - ii. Each applicant must submit a registration form (see Exhibit A).
- C. Upon completing training, an attorney will be given a log-in and password.
  - i. An attorney must protect the security of the attorney's password.
    - a. An attorney must not knowingly permit the attorney's log-in or password to be used by anyone other than an authorized member or employee of the attorney's office or firm.
    - b. An attorney must immediately notify the Court if the attorney suspects the attorney's password has been compromised.
  - ii. An attorney may request a different password at any time by contacting the Court.
- D. By registering to use the Court's ECF system, an attorney consents to notice by electronic means in lieu of service by first class mail, by personal service, or by other means required or permitted by the Federal Rules of Bankruptcy Procedure.

## **II. Filing**

- A. Except as provided below, an attorney must use the Court's ECF system to file electronically any petition, list, schedule, statement, plan, motion, response, objection, complaint, answer, brief, certificate of service, or other document (collectively, "document") the attorney wishes to file with the Court.

- i. An application to appear *pro hac vice*<sup>1</sup> (and all supporting documents) shall be filed electronically by the local counsel identified in the application. With the Court's approval, subsequent documents may be filed electronically by the attorney appearing *pro hac vice*, provided the attorney has submitted a registration form and has been issued a login and password.<sup>2</sup>
- ii. An attorney may file electronically a motion to file a document under seal. However, the attorney must file conventionally the actual document to be filed under seal, with a copy of the order granting the motion to file it under seal attached.
- iii. An attorney must file electronically exhibits, other than those to be offered at a trial or evidentiary hearing, and attachments.
  - a. If an attorney files electronically an exhibit or attachment that is not available in electronic form, the attorney must image (scan) and file that exhibit or attachment in Portable Document Format (PDF).
  - b. If an attorney files electronically an exhibit or attachment that is voluminous, the attorney is strongly encouraged to extract and file only those portions of the exhibit or attachment that are directly germane to the matter to which the exhibit or attachment relates.
    - I. An attorney must clearly and prominently identify all excerpted material as such.
    - II. An attorney who files electronically only a portion of an exhibit or attachment does so without prejudice to the attorney's right to timely file additional portions of the exhibit

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<sup>1</sup> See Rule 83.2(E) of the Local Rules of Practice of the United States District Court for the District of South Dakota (incorporated by reference in Local Bankruptcy Rule 2090-1) and the District Court's January 3, 1996 standing order.

<sup>2</sup> The Court's issuance of a login and password does not excuse compliance with Rule 83.2(E) of the Local Rules of Practice of the United States District Court for the District of South Dakota, Local Bankruptcy Rule 2090-1, and the District Court's January 3, 1996 standing order.

or attachment or the entire exhibit or attachment.

- III. A responding party may timely file additional portions of the exhibit or attachment or the entire exhibit or attachment.
- iv. An attorney must submit any exhibit to be offered at a trial or evidentiary hearing conventionally, in the manner prescribed by the Local Bankruptcy Rules.
- v. An attorney must file conventionally transcripts, in the manner prescribed by the Local Bankruptcy Rules.
- B. An attorney must file electronically mailing lists of creditors and amended mailing lists of creditors. The attorney must prepare such mailing lists and amended mailing lists in accordance with the provisions of LBR 1007-1(a)(2) (Mailing List: Form) and 1009-2 (Amendment to Mailing List) having to do with the preparation of electronically-filed mailing lists and amended mailing lists.
- C. An attorney must upload a debtor's full social security number in lieu of filing an Official Form B21 (Statement of Social Security Number(s)); provided, however, that in compliance with ¶ V below, the attorney must obtain the debtor's signature on an original hard copy Official Form B21 prior to doing so and must retain the original hard copy Official Form B21 for a period not less than five years after the case is closed, unless the Court directs that it be retained for a different period.

### III. Service

- A. When a document is filed electronically, the Court's ECF system automatically transmits a Notice of Electronic Filing to the filing attorney, any registered attorneys who have appeared in the case, and any parties in the case who have registered for electronic notice.
  - i. The attorneys and parties who will receive the Electronic Notice of Filing are identified on the Notice.
  - ii. The transmittal of the Notice of Electronic Filing to the listed attorneys and parties constitutes service of the document on them, and no additional service by more traditional means is required.

- iii. Service by electronic means on a registered attorney or a party who has registered for electronic notice is deemed “service by mail” for the purposes of Fed.R.Bankr.P. 9006(f) and LBR 2002-1(d).
- B. When an attorney files a document electronically, the attorney must serve the document on anyone entitled to service, including specifically the debtor(s), who will not receive the Electronic Notice of Filing. Such service shall be made in compliance with applicable Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules.

#### IV. Required Fees

- A. If a filing fee is required (*e.g.*, for petitions, motions to reopen, amendments, certain other motions, and adversary complaints), an attorney must submit the required fee within three business days of the electronic filing.
- B. An attorney’s check in payment of any required fee must be attached to a copy of the Notice of Electronic Filing transmitted to the attorney at the time the document generating the fee was filed electronically.

#### V. Signature(s)

- A. Use of the attorney’s login and password to file any document that must bear the attorney’s signature constitutes the attorney’s signature for all purposes with respect to that document.
- B. Use of the attorney’s login and password to file any document that must bear one or more signatures other than the attorney’s (*e.g.*, stipulations), or that requires verification pursuant to Fed.R.Bankr.P. 1008 or an unsworn declaration pursuant to 28 U.S.C. § 1746 (*e.g.*, petitions, lists, schedules, statements, and amendments thereto), constitutes the attorney’s representation that: (1) prior to filing the document electronically, the attorney obtained all necessary signatures on an original hard copy document; and (2) at the time of the electronic filing, the attorney has in the attorney’s possession the signed original hard copy document.
  - i. An attorney may file electronically a text copy of the document, in which event the attorney shall indicate any original signature(s) on the electronically filed document with “s/Signer’s Name” in the appropriate signature space(s).

- ii. Alternatively, an attorney may file electronically an imaged (scanned) copy of the document bearing all required signatures in Portable Document Format (PDF).
- C. An attorney shall retain any original hard copy document described in paragraph “B” above for a period not less than five years after the case is closed, unless the Court directs that it be retained for a different period.
  - i. An attorney must make a debtor’s original petition, lists, schedules, and statements available for inspection by the trustee, the U.S. Trustee, creditors, and other parties in interest at the debtor’s § 341 meeting of creditors and, upon request, at any other mutually convenient time.
  - ii. An attorney must make a debtor’s original petition, lists, schedules, and statements available for inspection by the Court at any time, upon request.

## **VI. Effect of Electronic Filing**

- A. An attorney’s electronic transmission of a document to the ECF system in compliance with these guidelines, once confirmed by transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes under the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules and entry of the document on the docket maintained by the Clerk pursuant to Fed.R.Bankr.P. 5003.
- B. When a document has been filed electronically, the electronic recording of the document constitutes the official record of the document, and the attorney is bound by the document as filed electronically.
- C. When a document has been filed electronically, the document is deemed filed on the date and at the time reflected on the Court’s Notice of Electronic Filing.
- D. Filing a document electronically does not alter any filing deadline (“last day to file”) for that document. Unless the Court sets a different deadline, filing must be completed before midnight (Central Standard Time or Central Daylight Saving Time, whichever is in effect) on the last day to file to be considered timely filed with respect to any such filing deadline.

## **VII. Technical Failure(s)**

- A. An attorney whose filing is made untimely as the result of a technical failure may seek appropriate relief from the Court.

## **VIII. Failure to Comply**

- A. An attorney may be subject to sanctions, including, but not limited to, revocation of electronic filing privileges, for failure to comply with this procedure, including specifically ¶¶ I.C.i., II.B., IV.A, V.B., and V.C.

**ELECTRONIC CASE FILING SYSTEM  
ATTORNEY REGISTRATION FORM**

Name (Last, First, Middle Initial):

Last Four Digits of SSN:

Firm Name (if any):

PACER I.D.:

Mailing Address:

Telephone Number:

Fax Number:

E-mail Address:

I have been trained to file documents electronically by the Bankruptcy Court for the District of South Dakota or \_\_\_\_\_ (identify Court and attach documentation).

I have read and agree to abide by the terms of the Court's Electronic Case Filing Administrative Procedures, as amended from time to time.

I consent to service by electronic means when permitted under applicable rules and the Court's Electronic Case Filing Administrative Procedures.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_